IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.471 OF 2006

Shri Santosh Ambar Pardeshi .. Applicant

Vs.

Smt.Kavita Santosh Pardeshi .. Respondent

Mr.M.S.Raje i/b Ms.Pranali Kakade for the applicant

Ms.Shilpa Gajre for the respondent state

CORAM : J.N.PATEL &
A.A.SAYED, JJ.

DATED : 5TH JULY, 2007

P.C.:

1. Heard.

2. A short question which is required to be considered in this petition is as to whether the order passed by the Family Court granting maintenance to the respondent wife in the sum of Rs.2,500/- per month is illegal or improper.

3. It is not in dispute that the petitioner

and the respondent were married on 9.12.04 as per Hindu rites and as the petitioner failed to maintain her, she applied for maintenance by filing a petition for maintenance under section 125 of the Criminal Procedure Code in the Family Court.

4. It is the case of the respondent wife that after getting married she was treated with cruelty and demand for dowry was also made and she was not allowed to stay in her maternal home and therefore, her maternal aunt had mediated in the matter so as to reach the respondent wife to the house of the petitioner. During mediation it was agreed that the amount demanded by the petitioner would be paid in instalment and this settlement was arrived after much quarrel and debate between the parties but it appears that it did not materialise and the wife came to be deserted.

5. It is the case of the petitioner husband that all the allegations made by the respondent wife are false and baseless. She has herself abandoned the maternal home. It is further submitted that the petitioner was merely working as

an office boy in the office of the Advocate who has shifted to Mumbai after closing down his office and therefore, the petitioner is without any source of income.

6. It is the contention of the petitioner husband that the amount of maintenance awarded by the Family Court is not only unreasonable but unjustifiable considering the fact that the petitioner hardly has any income to maintain himself and his old parents. It is fairly conceded that as the dispute between themselves could not be settled, the couple could not reside together. In short, what has been stated is that the marriage was not successful due to incompatibility.

7. On the other hand, the respondent wife's case was that the petitioner is an Advocate but works as a clerk alongwith an advocate and earns about Rs.10,000/- per month. This includes his income from business in selling and marketing fish. It was the contention of the respondent that she has been treated with cruelty so as to coerce her to fulfil demand for dowry and that she has been

deserted and that the petitioner husband though having sufficient income has refused and neglected to maintain her and on the basis of evidence on record, the Family Court found that the wife is entitled for maintenance and passed the impugned order awarding maintenance in the sum of Rs.2500/- per month to the petitioner.

8. We have gone through the evidence led by the parties before the Family Court. We find that the respondent has proved that the petitioner husband has neglected his wife by deserting her and has refused to maintain her, though he has sufficient source of income.

9. The only question which requires consideration is whether the petitioner husband has sufficient means to pay the maintenance fixed by the Family Court and in our view, the amount of maintenance fixed by the Family Court is just and reasonable. Even accepting that the petitioner husband was working as an office boy with an advocate, his earnings by way of salary cannot be less than the minimum wages which a labourer gets

in the city of Pune. The wife has specifically stated that he also deals in business of selling and marketing fish. There is no reason to disbelieve as the wife is supposed to have personal knowledge about the earnings of the husband. Even otherwise, the petitioner is a 26 years' old young man and, therefore, it cannot be said that he is not having sufficient means or not capable of earning sufficient enough to maintain his wife. In In so far as amount of maintenance is concerned, sum of Rs.2500/- per month hardly meets the bare necessities of life i.e. food, clothing, shelter, medical expenses and other sundry expenses required for survival of a person. Therefore, we do not find that the impugned order calls for any interference. Criminal Revision Application is dismissed.

(J.N. PATEL, J)

(A.A. SAYED, J)